

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-FIRST DAY (CONTINUED) — FRIDAY, APRIL 28, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 243).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Rusling; Sadler; Saunders; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Absent, Excused — Alexander; Gutierrez; Hunter, T.; Romo; Seidlits; Telford.

The invocation was offered by Reverend Robert C. Preece, Senior Pastor, Zion Lutheran Church, Dallas, as follows:

Let us pray: Almighty and everlasting God, we praise you for all that you have done for our beloved State of Texas. Deepen the root of our common life in your everlasting righteousness, lest your blessing be withdrawn. Make us equal to our high trusts, reverent in the use of freedom, just in the exercise of power, and generous in the protection of weakness. Inspire the men and women who direct the State, that they may guide it wisely and well; give insight and faithfulness to all our legislators, especially those here present; and may our deepest trust ever be in you, the Lord of nations; through Jesus Christ our Lord. Amen.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business:

T. Hunter on motion of Oakley.

Alexander on motion of Oakley.

Seidlits on motion of Oakley.

Gutierrez on motion of Solis.

Telford on motion of Uher.

Romo on motion of Uher.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Davila on motion of Hernandez.

CAPITOL PHYSICIAN

Speaker Laney presented Dr. Robert Allen of Garland as the "Doctor for the Day."

The house welcomed Dr. Allen and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolution:

HB 722, HB 1318, HCR 104

HR 732 - ADOPTED

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 732**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yarbrough,

HR 732, Congratulating the Reverend John William Bowie on his second pastoral anniversary at True Light Baptist Church.

The resolution was adopted without objection.

HR 726 - ADOPTED

Representative McDonald moved to suspend all necessary rules to take up and consider at this time **HR 726**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By McDonald,

HR 726, Congratulating Davie Lee Wright Johnson on being named Nurse of the Year by District 1 of the Texas Nurses Association.

The resolution was adopted without objection.

(Speaker pro tempore in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The chair laid before the house the following memorial resolutions:

By R. Cuellar,

HCR 164, In memory of Corporal Harlon Block, U.S.M.C.

By Alexander,

HR 604, In memory of Judge William Everett Hart.

By Coleman and Danburg,

HR 607, In memory of William Arnold "Bill" Scott.

By Davila,

HR 639, In memory of Pasadena police officer Les Early.

By Alexander,

HR 657, In memory of June P. Clark.

The resolutions were unanimously adopted by a rising vote.

The chair laid before the house the following congratulatory resolutions:

SCR 109 (Carter - House Sponsor), Designating April 21-29, 1995, and April 21-27, 1996, as National Science and Technology Week in Texas.

By Coleman,

HR 592, Recognizing the board of directors, the staff, and the volunteers of the Martin Luther King, Jr., Community Center.

By McCall,

HR 595, Congratulating David and Nellie McCall on their 50th wedding anniversary.

By Alexander,

HR 600, Congratulating the West Cedar Creek Municipal Utility District on the opening of a new water treatment plant.

By Alexander,

HR 603, Commending the Corsicana office of the Liberty Mutual Group.

By Conley,

HR 605, Honoring the Alpha Tau Omega chapter of the Alpha Kappa Alpha Sorority.

By Coleman,

HR 606, Honoring the Carrier-Holder Family Reunion.

By Pitts,

HR 608, Honoring Helen Mitchell on her selection as Beta Sigma Phi's First Lady of Waxahachie.

By Hill,

HR 611, Honoring The University of Texas at Dallas and welcoming the Texas Government class.

By Hernandez,

HR 612, Congratulating Dr. John P. Howe III, Dr. James Young, and The University of Texas Health Science Center at San Antonio.

By Averitt,

HR 620, Congratulating the Midway High School Panther swim team.

By Averitt,

HR 621, Congratulating Ann Veazey of the Midway High School swim team.

By Hochberg,

HR 624, Honoring Hans Mayer on the occasion of his retirement.

By Clemons,

HR 635, Honoring Jim E. Thomas on the occasion of his retirement.

By Clemons,

HR 636, Honoring Verda Malone Logan on the occasion of her retirement.

By Clemons,

HR 637, Honoring Joe W. Belk on the occasion of his retirement.

By Howard,

HR 638, Honoring the Reverend Gerald B. Ray on his 25th anniversary as minister of music at Houston's First Baptist Church.

By Park,

HR 647, Honoring Blease Tibbets.

By Delisi,

HR 652, Honoring the Temple High School girls' swimming team.

HR 653 was previously adopted.

By Carona,

HR 654, Honoring Reinhardt Elementary School in Dallas on the occasion of the dedication of a Texas historical marker.

The resolutions were adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Rabuck on motion of Howard.

LOCAL BILLS CALENDAR ON SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

HB 824, A bill to be entitled An Act relating to the creation of a statutory county court in Matagorda County.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goodman, Representative Rodriguez offered the following committee amendment to the bill:

Amend **HB 824**, between lines 4 and 5 on page 2, to insert the following:

(d) A person sitting in the capacity of a county court at law judge in Matagorda County may not sit as an assigned judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Amendment No. 1 was adopted without objection.

CSHB 2574, A bill to be entitled An Act relating to the responsibilities of the Matagorda County Attorney and creating the office of district attorney for the 329th Judicial District in Wharton County.

CSSB 753 (Hartnett - House Sponsor), A bill to be entitled An Act relating to the creation of municipal courts of record in Irving.

CONSENT BILLS CALENDAR ON SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

HB 32, A bill to be entitled An Act relating to the exercise of the powers of eminent domain and the right of entry by the Texas High-Speed Rail Authority.

CSHB 49, A bill to be entitled An Act relating to the authority of a school district to permit certain persons to perform services for the district in lieu of paying ad valorem taxes owed to the district.

CSHB 283, A bill to be entitled An Act relating to the powers and duties of certain constables to enforce environmental laws affecting the Rio Grande.

Amendment No. 1

Representative H. Cuellar offered the following amendment to **CSHB 283**:

Amend **CSHB 283** as follows:

- (1) On page 1, between lines 13 and 14 insert:
"(1) with a population of 130,000 to 175,000;"
- (2) On page 1, line 14, strike "(1)" and substitute "(2)".
- (3) On page 1, line 15, strike "(2)" and substitute "(3)".

Amendment No. 1 was adopted without objection.

CSHB 321, A bill to be entitled An Act relating to a speed limit for school buses.

CSHB 331, A bill to be entitled An Act relating to certain public information regarding commercial property rating.

HB 344, A bill to be entitled An Act relating to the issuance of a commission to certain branch pilots.

HB 752, A bill to be entitled An Act relating to eligibility for certain law enforcement training programs and examinations.

HB 759 was withdrawn.

CSHB 771, A bill to be entitled An Act relating to certain nursing homes for purposes of professional liability insurance coverage.

CSHB 814, A bill to be entitled An Act relating to the restoration, operation, and maintenance of certain historic cemeteries.

HB 865, A bill to be entitled An Act relating to an increase in federal funding for mental health services for children and families.

HB 885, A bill to be entitled An Act relating to the amount of insurance coverage allowed under group life insurance policies.

HB 1124, A bill to be entitled An Act relating to the investigation of certain railroad crossing violations reported by a railway employee.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Siebert, Representative Finnell offered the following committee amendment to the bill:

Amend **HB 1124** by Finnell as follows:

Sec. 90A. REPORT AND INVESTIGATION OF RAILROAD CROSSING VIOLATION. (a) An on-engine employee of a railway company, while on a moving engine, who on site observes a violation of Section 86, 87, 88, 89, or 90 of this Act, may, within 72 hours after violation, allege that the violation occurred by filing a report of the violation, on a form approved by the department, with:

Amendment No. 1 was adopted without objection.

HB 1233, A bill to be entitled An Act relating to withholding for federal income tax purposes from unemployment compensation benefits.

MESSAGE FROM THE SENATE

Austin, Texas, April 28, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 151 by Barrientos, et al., relating to certification and licensing of certain court-appointed interpreters; providing penalties.

SB 345 by Brown, et al., relating to tax abatement, reinvestment zones, and the refund of certain taxes by the comptroller to reimburse certain taxes paid on property in a reinvestment zone.

SB 976 by Wentworth, relating to the issuance of special wildlife conservation license plates for the support of state and local parks and environmental education.

SB 1128 by Ellis, relating to the deposit, investment, safekeeping, and records and reports of, and collateral requirements for the deposit of, funds held by the state treasurer.

SB 1303 by Cain, relating to the practice of medicine, including the rehabilitation of impaired physicians and the unlicensed practice of medicine; providing a penalty.

SB 1487 by Zaffirini, et al., relating to prohibiting the consideration of race or ethnicity as a factor in adoption or foster care placements.

SB 1509 by Zaffirini, Truan, Moncrief, Lucio, Barrientos, et al., relating to the establishment of colonia self-help centers in certain counties.

CSHB 383 by Junell (Sponsor-Shapiro), relating to liability of certain governmental units and to the employees and officers of those units (amended).

HCR 179 by Willis, in memory of Phillip LaFrance Willis.

Local and Uncontested Bills

HCR 87 by Lewis, Ron (Sponsor-Harris, Chris), authorizing the burial of J. Neal Miller, Jr., in the State Cemetery.

SCR 41 by Harris, Chris, granting Tenneco permission to sue the state and The Texas A&M University System.

SCR 52 by Henderson, granting CW Systems, Inc., permission to sue the State of Texas and the University of Houston System.

SCR 53 by Henderson, granting John R. Phenix & Associates, Inc., permission to sue the State of Texas and the University of Houston System.

SCR 62 by Rosson, granting Cleola Sweed permission to sue the state and Texas Department of Human Services.

SCR 92 by Montford, granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System.

SCR 93 by Montford, granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System.

SCR 103 by Harris, Chris, granting National Projects, Inc., permission to sue the State of Texas and the Department of Criminal Justice.

SCR 104 by Harris, Chris, granting MKK-North Star permission to sue the State of Texas and the Department of Criminal Justice.

SCR 105 by Harris, Chris, granting Green International permission to sue the State of Texas and the Department of Criminal Justice.

SCR 106 by Wentworth, granting Harbert Construction Company permission to sue the State of Texas and the Texas Department of Criminal Justice.

HB 320 by Rabuck (Sponsor-Galloway), relating to excluding land from the New Caney Municipal Utility District.

HB 750 by Horn (Sponsor-Nelson), relating to the prohibition of certain disbursements from a county fund to a person with an outstanding debt to the state or the county.

HB 751 by Horn (Sponsor-Nelson), relating to the auditing of county jails.

HB 1465 by Coleman (Sponsor-Ellis), relating to the authority of the governing bodies of certain public institutions of higher education to close streets or alleys running through the campuses of those institutions (amended).

HB 1475 by Craddick (Sponsor-Bivins), relating to counties authorized to employ a purchasing agent.

HB 1529 by Eiland (Sponsor-Gallegos), relating to examination requirements for certain reappointed police officers.

SB 269 by Truan, relating to the identification of children suffering from lead poisoning.

SB 406 by Zaffirini, relating to health care purchasing by state agencies.

SB 545 by Rosson, relating to the consent of a person 16 years of age or older to donate blood or blood components.

SB 595 by Bivins, relating to the authority of counties to abate a public nuisance on certain property and assess costs of abatement.

SB 760 by Madla, relating to the authorization for the governing body of certain hospitals to conduct meetings by telephone conference call.

SB 1162 by Rosson, relating to unannounced inspections made by certain health and human services agencies.

SB 1168 by Sims and Shapiro, relating to requirements for the segregation of classes of inmates in county jails and for capacities in county jails.

SB 1197 by Sims and Wentworth, relating to a special judge serving a county court.

SB 1378 by Wentworth, relating to disposition of certain areas acquired or improved by a political subdivision with grants of money from the Texas recreation and parks account.

SB 1388 by Rosson, relating to the creation of a county mass transit authority.

SB 1439 by Brown, relating to nonsubstantive codification of the general arbitration statutes into the Civil Practice and Remedies Code.

SB 1489 by Ratliff, relating to research conducted by public senior colleges and universities on behalf of the Texas Department of Transportation.

SB 1617 by Harris, Chris, relating to the Texas Real Estate Investment Trust Act.

SB 1626 by Wentworth, relating to serving copies of certain court proceedings on the attorney general.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 699** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Sentor Lucio, Chair, Senator Sims, Senator Brown, Senator Armbrister, and Senator Bivins.

Respectfully,
Betty King
Secretary of the Senate

CONSENT CALENDAR - (consideration continued)

HB 1329, A bill to be entitled An Act relating to cancellation of certain alcoholic beverage licenses for failure to pay local fees.

CSHB 1472, A bill to be entitled An Act relating to certain insurance coverage available through the Texas Automobile Insurance Plan Association.

HB 1542, A bill to be entitled An Act relating to placement and replacement of evidence of registration of certain vehicles.

HB 1544, A bill to be entitled An Act relating to the designation of a portion of United States Highway 290 as the Pearl Harbor Memorial Highway.

HB 1559, A bill to be entitled An Act relating to payment of member contributions to retirement systems for police officers in certain municipalities.

CSHB 1642, A bill to be entitled An Act relating to the county court at law in Hopkins County.

CSHB 1651, A bill to be entitled An Act relating to the expansion of the Higgins Hospital District of Lipscomb County to include the territory included in the Lipscomb Hospital District of Lipscomb County and to the name of the expanded district.

HB 1670, A bill to be entitled An Act relating to the assignment of certain insurance agents' commissions.

Amendment No. 1 (Committee Amendment No. 1)

Representative Driver offered the following committee amendment to the bill:

Amend **HB 1670** as follows:

On page 1, Line 23, strike "person" and substitute "dealer".

Amendment No. 1 was adopted without objection.

CSHB 1680, A bill to be entitled An Act relating to rights and duties of a holder of an alcoholic beverage permit or license.

CSHB 1770, A bill to be entitled An Act relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department.

CSHB 1882, A bill to be entitled An Act relating to installment payments of ad valorem taxes imposed on the residence homestead of a disabled person.

CSHB 1989, A bill to be entitled An Act relating to the underground storage of appropriated water incidental to a beneficial use.

HB 2069, A bill to be entitled An Act relating to the disannexation of certain land by a municipality.

HB 2078, A bill to be entitled An Act relating to the sale or lease of property by municipalities, counties, or other political subdivisions.

SB 1028 (Seidlits - House Sponsor), in lieu of **HB 2108**, A bill to be entitled An Act relating to regulating the sale of livestock at auction.

Representative Oakley moved to lay **HB 2108** on the table subject to call.

The motion prevailed without objection.

CSHB 2159, A bill to be entitled An Act relating to the enforcement of a protective order by a constable.

HB 2376, A bill to be entitled An Act relating to the transfer of certain property from the Texas Department of Public Safety to the City of San Angelo.

CSHB 2387, A bill to be entitled An Act relating to the regulation of retail water or sewer service utilities.

CSHB 2446, A bill to be entitled An Act relating to the authority of a municipal utility district to assess a charge for providing peace officers in the district.

HB 2451 was withdrawn pursuant to Rule 6, Section 14(5), of the House Rules.

HB 2579, A bill to be entitled An Act relating to the abolition of the interagency coordination council.

CSHB 2610, A bill to be entitled An Act relating to the collection of delinquent ad valorem taxes and the appraisal of property for ad valorem tax purposes.

CSHB 2625, A bill to be entitled An Act relating to actions for the collection of ad valorem taxes and transfers of property in the course of collecting ad valorem taxes.

CSHB 2673, A bill to be entitled An Act relating to the imposition and collection of additional court costs in certain counties.

HB 2687, A bill to be entitled An Act relating to service on the boards of trustees of retirement systems for police officers in certain municipalities.

CSHB 2696, A bill to be entitled An Act relating to the ability of a municipality to participate in a federal program for which local matching funds are required.

HB 2726, A bill to be entitled An Act relating to tax-exempt private activity bonds.

HB 2732, A bill to be entitled An Act relating to the timely filing of alcoholic beverage permits, the activities authorized for the holder of an agent's permit, the storage of certain alcoholic beverage records, and shipment of alcoholic beverages into the state.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Yarbrough, Representative Brimer offered the following committee amendment to the bill:

Amend **HB 2732** as follows:

Section 3, page 2, line 7, strike "201.01(a)" and replace with "206.01(a)" and Section 3, page 2, line 10, strike "deep" and replace with "keep".

Amendment No. 1 was adopted without objection.

HB 2790, A bill to be entitled An Act relating to the exemption of insurance benefits and certain annuity proceeds from seizure under process.

HB 2842, A bill to be entitled An Act relating to eligibility for disability pensions from retirement systems for police officers in certain municipalities.

CSHB 2875, A bill to be entitled An Act relating to the continued eligibility for assistance of certain areas formerly classified as economically distressed areas.

CSHB 2943, A bill to be entitled An Act relating to public retirement systems for employees of certain municipalities.

HB 3031, A bill to be entitled An Act relating to authorized locations for the sale of lottery tickets. (Hartnett recorded voting no)

HB 3061, A bill to be entitled An Act relating to the authority of the Swisher Memorial Hospital District to issue anticipation notes and certificates of obligation.

HB 3062, A bill to be entitled An Act relating to the windows and windshields of certain law enforcement vehicles.

HB 3075, A bill to be entitled An Act relating to definition, sale, and purchase of certain fish.

CSHB 3109, A bill to be entitled An Act relating to state agency reports to the bond review board on bond transactions.

HB 3171, A bill to be entitled An Act relating to the exemption of certain chemical dependency programs from licensure requirements.

CSHB 3183, A bill to be entitled An Act relating to the dates on which an election to approve the adoption of a municipal sales tax may be held.

SB 323 (Sadler - House Sponsor), A bill to be entitled An Act relating to the licensing of certain physicians who are certified by a medical specialty board.

CSSB 401 (Romo - House Sponsor), A bill to be entitled An Act relating to the payment of and procedures to enforce payment of taxes and fees collected by the comptroller; providing penalties.

SB 561 (Finnell - House Sponsor), A bill to be entitled An Act relating to the election of the members of the board of directors of the Jack County Hospital District.

SB 773 (B. Hunter - House Sponsor), A bill to be entitled An Act relating to abandoned personal property at private institutions of higher education.

SB 792 (Goodman - House Sponsor), A bill to be entitled An Act relating to certain contracts of the Trinity River Authority.

SB 855 (Yarbrough - House Sponsor), A bill to be entitled An Act relating to providing a deferred retirement option to members of firemen's relief and retirement funds in certain cities.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolutions on committee report:

By Saunders,

HR 82, Recognizing the first week in October as German Cultural Awareness Week in Texas.

The resolution was adopted without objection.

On motion of Representative McCoulskey, the names of all the members of the house were added to **HR 82** as signers thereof.

By Saunders, et al.,

HR 83, Recognizing the last full week in October as Czech heritage week in Texas.

The resolution was adopted without objection.

On motion of Representatives McCoulskey and Kubiak, the names of all the members of the house were added to **HR 83** as signers thereof.

SCR 16 (Thompson - House Sponsor), Requesting the Supreme Court of Texas to promulgate rules for the State Bar of Texas to institute in its continuing education curriculum a program on sexual abuse issues.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goodman, Representative Thompson offered the following committee amendment to the resolution:

Amend **SCR 16** as follows:

(1) On page 1, line 13, delete the word "Certified" and substitute "Board certified".

(2) On page 2, line 20, insert the word "board" between "all" and "certified".

Amendment No. 1 was adopted without objection.

The resolution, as amended, was adopted without objection.

RULES SUSPENDED

Representative Clemons moved to suspend the 5-day posting rule to allow the Committee on Appropriations, Subcommittee on Environmental and General Government to consider **HB 2181**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Appropriations, Subcommittee on Environmental and General Government, 8 a.m. Monday, May 1, to consider **HB 2181**.

ADJOURNMENT

Representative Maxey moved that the house adjourn until 11:40 a.m.

The motion prevailed without objection.

The house accordingly, at 11:30 a.m., adjourned until 11:40 a.m.